

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JAMES HARDY, :
: :
Petitioner, : 11-cv-8382 (JSR)
: 10-cr-1123 (JSR)
-v- :
: : ORDER
UNITED STATES OF AMERICA, :
: :
Respondent. :
----- x

JED S. RAKOFF, U.S.D.J.

On July 5, 2012, this Court, adopting the Report and Recommendation of Magistrate Judge Andrew J. Peck, denied the motion of petitioner James Hardy to vacate, set aside, or correct sentence pursuant to 28 U.S.C. §2255. ECF No. 15. Hardy now moves for a certificate of appealability from that order. ECF No. 38.

Because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. See 28 U.S.C. § 2253. The Court certifies that any appeal from this Order would not be taken in good faith, as petitioner's claim lacks any arguable basis in law or fact, and therefore permission to proceed in forma pauperis is also denied. See 28 U.S.C. § 1915(a)(3); see also Seimon v. Emigrant Savs. Bank (In re Seimon), 421 F.3d 167, 169 (2d Cir. 2005).

SO ORDERED.

Dated: New York, NY

September 27, 2020


JED S. RAKOFF, U.S.D.J.